

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

BOBBY PHILLIPS, #A-66488,)	
)	
Plaintiff,)	
)	
vs.)	No. 11-1003
)	
S.A. GODINEZ, SHERRY BENTON,)	
DAVE REDNOUR and LORI OAKLEY,)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

NOW COME Defendants, S.A. GODINEZ, SHERRY BENTON, DAVE REDNOUR and LORI OAKLEY, by and through their attorney, Lisa Madigan, Attorney General of the State of Illinois, pursuant to Federal Rule of Civil Procedure 56, and hereby submit their Motion for Summary Judgment. In support thereof, Defendants state as follows:

1. Plaintiff's Complaint seeks an injunction ordering Defendants to place Plaintiff in protective custody housing in Menard Correctional Center. (November 29, 2011, Merit Review Order, Court Doc. # 8 at 3.) The Complaint alleges Plaintiff was temporarily in protective custody but Plaintiff was informed, on October 24, 2011, that he would be returned to general population (Court Doc. # 8 at 3) despite having already informed Defendants of specific threats against Plaintiff and identifying individual enemies in general population (Court Doc. # 8 at 2-3).
2. "As the Supreme Court has noted, when a plaintiff fails on even one element of a claim, summary judgment is appropriate." A.V. Consultants, Inc. v. Barnes, 978 F.2d 996, 1002

(7th Cir. 1992) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986)). “ ‘[I]f an event occurs while a case is pending . . . that makes it impossible for the court to grant any effectual relief whatever to a prevailing party, the [case] must be dismissed.’

(Citation.) While an ‘entire claim is not mooted simply because the specific relief it sought has been rendered moot, [to avoid dismissal based on mootness, the party seeking relief] must . . . demonstrate that the court's adjudication would affect it in some way.’

(Citation.)” Pakovich v. Verizon LTD Plan, 653 F.3d 488, 492 (7th Cir. 2011).

3. There is no question as to the material facts. Plaintiff never left protective custody, is approved to be housed in protective custody, and at all times relevant to the Complaint was housed in protective custody. Plaintiff is no longer housed in Menard Correctional Center. Because the threat to Plaintiff's safety has been removed, Plaintiff cannot establish an essential element of his claim. Further, Plaintiff has already obtained the only relief sought. Accordingly, Defendants are entitled to judgment as a matter of law. Alternatively, Plaintiff's Complaint should be dismissed as moot. Higgason v. Farley, 83 F.3d 807, 811 (7th Cir. 1996) (reversing district court grant of summary judgment as to moot claim with instructions to dismiss those claims).
4. Filed contemporaneously is Defendants' Brief in support of this motion.

WHEREFORE, for the above and foregoing reasons, Defendants respectfully request the Court enter judgment in favor of Defendants on Plaintiff's Complaint. In the alternative, Defendants request the Court dismiss Plaintiff's Complaint, and any other relief deemed necessary and just.

Respectfully submitted,

S.A. GODINEZ, SHERRY BENTON,
DAVE REDNOUR, and LORI OAKLEY,

Defendants,

LISA MADIGAN, Attorney General,
State of Illinois,

Attorney for Defendants.

Jerrod L. Williams, #6278719
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By: s/ Jerrod L. Williams
JERROD L. WILLIAMS
Assistant Attorney General

Of Counsel.

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CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2012, I electronically filed Defendants' Motion for Summary Judgment with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

None

and I hereby certify that on July 25, 2012, I mailed by United States Postal Service, the document to the following non-registered participant:

Bobby L. Phillips, #A66488
Stateville Correctional Center
P.O. Box 112
Joliet, IL 60434

Respectfully Submitted,
s/ Jerrod L. Williams
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